

SENATE BILL 1003
By Norris

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 12, relative to motor vehicle financial responsibility and motor vehicle accidents.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 12, is amended by adding the following as a new section:

(a)

(1) If the owner or operator of a motor vehicle involved in an accident did not, at the time of such accident, own or maintain proof of financial responsibility as required by this chapter, such owner or operator shall not be entitled to recover for the first ten thousand dollars (\$10,000) of bodily injury and for the first ten thousand dollars (\$10,000) of property damage as the result of any civil action or claim arising out of or brought because of such accident.

(2) For purposes of this section, "bodily injury" and "property damage" have the same meaning as such terms are otherwise used in this chapter.

(3) The limitation of recovery provisions of this subsection do not apply if the operator of the other vehicle:

(A) Is arrested for a violation of § 55-10-401, as a result of the accident and is subsequently convicted of or pleads nolo contendere to such offense;

(B) Intentionally causes the accident;

(C) Flees from the scene of the accident; or

(D) At the time of the accident, is in furtherance of the commission of a felony offense under the law.

(b) Each person who is involved in an accident in which the other motor vehicle was not covered by proof of financial responsibility and who is found to be liable for damages to the owner or operator of the other motor vehicle may assert as an affirmative defense the limitation of recovery provisions of subsection (a) of this section.

(c) If the owner of a motor vehicle, who fails to own or maintain proof of financial responsibility, institutes an action to recover damages in any amount, regardless of whether such owner or operator is at fault, and is awarded an amount equal to or less than the minimum amount of financial responsibility required by this chapter, such owner or operator shall be assessed and held liable for all court costs incurred by all parties to the action.

(d) Any person who applies for a driver license, registers a motor vehicle, or operates or owns a motor vehicle in this state is deemed to have given such person's consent to be subject to and governed by the provisions of this section. Any person who applies for the issuance or renewal of a driver license, motor vehicle title, or motor vehicle registration shall sign a declaration on a form developed by the department of safety that the person acknowledges and gives consent to the requirements and provisions of this section and that the person will comply with all provisions of this section and the Financial Responsibility Law of 1977. Proof of whether the person obtained or signed such declaration is irrelevant to the application of this section.

(e) Nothing in this section shall preclude a passenger in a vehicle from asserting a claim to recover damages for injury, death, or loss which are caused, in whole or in part, by the negligence of another person arising out of the operation or use of a motor vehicle. This subsection shall not apply to a passenger who is also the owner of the uninsured motor vehicle involved in the accident.

(f)

(1) Notwithstanding any provision of law to the contrary, no insurer shall lose any rights of subrogation for claims paid under the applicable insurance policy for the recovery of any sum in excess of the first ten thousand dollars (\$10,000) of bodily injury and the first ten thousand dollars (\$10,000) of property damages.

(2) In claims where no suit is filed, the claimant's insurer shall have all rights to recover any amount paid by the claimant's insurer on behalf of the insured for the recovery of any sum in excess of the first ten thousand dollars (\$10,000) of bodily injury and the first ten thousand dollars (\$10,000) of property damages.

(g)

(1) Except for newly acquired vehicles added to a policy subject to the policy terms, the issuance, change, or adjustment of any motor vehicle liability insurance policy subsequent to a motor vehicle accident, without proof of coverage having been bound prior to such motor vehicle accident, shall not result in any of the following:

(A) Any recovery for injury or damages that are otherwise prohibited under this section;

(B) The defeat of any affirmative defense otherwise allowed under this section; or

(C) The avoidance of liability for court costs otherwise required under this section.

(2) Reinstatement provisions of a policy during the premium payment grace period specified in the policy shall not be invalidated by the provisions of this section.

(h) The provisions of this section shall not apply to any vehicle which is legally parked at the time of the accident.

SECTION 2. For the purpose of the department of safety developing and producing the form required by this act, it shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, it shall take effect on July 1, 2003.